

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, ***may possibly*** be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT:

No

LEGISLATIVE FISCAL ESTIMATE:

Yes 12/22/2020

VETO MESSAGE:

No

GOVERNOR'S PRESS RELEASE ON SIGNING:

Yes

FOLLOWING WERE PRINTED:

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REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

No

RH/CL

P.L. 2021, CHAPTER 31, *approved March 1, 2021*
Assembly, No. 2280 (*Second Reprint*)

1 AN ACT concerning referrals to substance use disorder treatment
2 facilities and supplementing Title ¹**[26]** 2C¹ of the ¹**[Revised]**
3 New Jersey¹ Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 ¹**[**1. a. Except as provided in subsection b. of this section, no
9 substance use disorder treatment facility approved and licensed in
10 accordance with section 8 of P.L.1975, c.305 (C.26:2B-14) shall
11 pay or otherwise furnish any fee, commission, or rebate to any
12 person to refer patients to the facility for substance use disorder
13 treatment or services. Each violation of the provisions of this
14 section shall be punishable by a civil penalty of up to \$25,000,
15 which shall be collected and enforced by the Commissioner of
16 Human Services in a summary proceeding pursuant to the "Penalty
17 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

18 b. The penalties imposed pursuant to subsection a. of this
19 section shall not apply to a fee, commission, or rebate that does not
20 vary based on:

21 (1) the number of patients referred to a substance use disorder
22 treatment facility;

23 (2) the duration, level, volume, or nature of the treatment
24 services provided to a patient; or

25 (3) the amount paid by a carrier to a substance use disorder
26 treatment facility for treatment or services provided to a patient. ¹**]**
27

28 ¹**[**2. a. Except as provided in subsection b. of this section, no
29 substance use disorder treatment facility issued a certificate of
30 approval pursuant to P.L.1970, c.334 (C.26:2G-21 et seq.) shall pay
31 or otherwise furnish any fee, commission, or rebate to any person to
32 refer patients to the facility for substance use disorder treatment or
33 services. Each violation of the provisions of this section shall be
34 punishable by a civil penalty of up to \$25,000, which shall be
35 collected and enforced by the Commissioner of Human Services in
36 a summary proceeding pursuant to the "Penalty Enforcement Law
37 of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

38 b. The penalties imposed pursuant to subsection a. of this
39 section shall not apply to a fee, commission, or rebate that does not
40 vary based on:

EXPLANATION – Matter enclosed in bold-faced brackets **[thus] in the above bill is not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AHE committee amendments adopted March 5, 2020.

²Senate SHH committee amendments adopted September 14, 2020.

1 (1) the number of patients referred to a substance use disorder
2 treatment facility;

3 (2) the duration, level, volume, or nature of the substance use
4 disorder treatment services provided to a patient; or

5 (3) the amount of benefits provided by a carrier to a substance
6 use disorder treatment facility for treatment or services provided to
7 a patient.¹

8

9 ¹[3. The Commissioner of Human Services, pursuant to the
10 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
11 seq.), shall adopt rules and regulations to implement the provisions
12 of this act.]¹

13

14 ¹1. a. ²[Except as provided in subsection b. of this section, a
15 A² person is guilty of a crime of the fourth degree if ²[he or she] the
16 person² makes or receives a payment or otherwise furnishes or
17 receives any fee, commission, or rebate to any person in connection
18 with the referral of patients to a facility licensed in accordance with
19 section 8 of P.L.1975, c.305 (C.26:2B-14) for substance use disorder
20 treatment or services or to a substance use disorder treatment facility
21 issued a certificate of approval pursuant to P.L.1970, c.334 (C.26:2G-
22 21 et seq.).

23 b. A person is guilty of a crime of the fourth degree if the person
24 knowingly assists, conspires with, or urges any person to ²[violate a
25 provision of this act] make, furnish, or receive a payment, fee,
26 commission, or rebate in violation of subsection a. of this section² .

27 c. It shall not be a violation of ²subsection a. of² this section to
28 make or receive a payment or otherwise furnish or receive any fee,
29 commission, or rebate that does not vary based on:

30 (1) the number of patients referred to a substance use disorder
31 treatment facility;

32 (2) the duration, level, volume, or nature of the substance use
33 disorder treatment services provided to a patient; or

34 (3) the amount of benefits provided by a carrier to a substance use
35 disorder treatment facility for treatment or services provided to a
36 patient.¹

37

38 ¹[4.] 2.¹ This act shall take effect immediately.

39

40

41

42

43 Criminalizes certain payments for referral of patients to
44 substance use disorder treatment facilities.

ASSEMBLY, No. 2280

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JANUARY 27, 2020

Sponsored by:

Assemblyman JOHN ARMATO

District 2 (Atlantic)

Assemblywoman CAROL A. MURPHY

District 7 (Burlington)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Co-Sponsored by:

Assemblyman Verrelli

SYNOPSIS

Prohibits certain substance use disorder treatment facilities from paying fees, commissions, or rebates to any person to refer patients to facility.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/5/2020)

1 AN ACT concerning referrals to substance use disorder treatment
2 facilities and supplementing Title 26 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. a. Except as provided in subsection b. of this section, no
8 substance use disorder treatment facility approved and licensed in
9 accordance with section 8 of P.L.1975, c.305 (C.26:2B-14) shall
10 pay or otherwise furnish any fee, commission, or rebate to any
11 person to refer patients to the facility for substance use disorder
12 treatment or services. Each violation of the provisions of this
13 section shall be punishable by a civil penalty of up to \$25,000,
14 which shall be collected and enforced by the Commissioner of
15 Human Services in a summary proceeding pursuant to the "Penalty
16 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

17 b. The penalties imposed pursuant to subsection a. of this
18 section shall not apply to a fee, commission, or rebate that does not
19 vary based on:

20 (1) the number of patients referred to a substance use disorder
21 treatment facility;

22 (2) the duration, level, volume, or nature of the treatment
23 services provided to a patient; or

24 (3) the amount paid by a carrier to a substance use disorder
25 treatment facility for treatment or services provided to a patient.

26

27 2. a. Except as provided in subsection b. of this section, no
28 substance use disorder treatment facility issued a certificate of
29 approval pursuant to P.L.1970, c.334 (C.26:2G-21 et seq.) shall pay
30 or otherwise furnish any fee, commission, or rebate to any person to
31 refer patients to the facility for substance use disorder treatment or
32 services. Each violation of the provisions of this section shall be
33 punishable by a civil penalty of up to \$25,000, which shall be
34 collected and enforced by the Commissioner of Human Services in
35 a summary proceeding pursuant to the "Penalty Enforcement Law
36 of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

37 b. The penalties imposed pursuant to subsection a. of this
38 section shall not apply to a fee, commission, or rebate that does not
39 vary based on:

40 (1) the number of patients referred to a substance use disorder
41 treatment facility;

42 (2) the duration, level, volume, or nature of the substance use
43 disorder treatment services provided to a patient; or

44 (3) the amount of benefits provided by a carrier to a substance
45 use disorder treatment facility for treatment or services provided to
46 a patient.

1 3. The Commissioner of Human Services, pursuant to the
2 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
3 seq.), shall adopt rules and regulations to implement the provisions
4 of this act.

5

6 4. This act shall take effect immediately.

7

8

9

STATEMENT

10

11 This bill prohibits substance use treatment disorder facilities
12 regulated by the Division of Mental Health and Addiction Services
13 in the Department of Human Services from paying or otherwise
14 furnishing any fee, commission, or rebate to any person for
15 referring patients to the facility for treatment or services. Each
16 violation of the bill is punishable by a civil penalty of up to
17 \$25,000.

18 The civil penalties imposed under the bill will not apply to the
19 payment of a fee, commission, or rebate that does not vary based on
20 the number of patients referred to a substance use disorder
21 treatment facility; the duration, level, volume, or nature of the
22 substance use disorder treatment services provided to a patient; or
23 the amount paid by a carrier to a substance use disorder treatment
24 facility for treatment or services provided to a patient.

ASSEMBLY HEALTH COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2280

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 5, 2020

The Assembly Health Committee reports favorably and with committee amendments Assembly Bill No. 2280.

As amended, this bill provides that a person is guilty of a crime of the fourth degree if the person knowingly makes or receives a payment or otherwise furnishes or receives any fee, commission, or rebate to any person in connection with the referral of patients to substance use treatment disorder facilities regulated by the Division of Mental Health and Addiction Services in the Department of Human Services. The bill provides that a person is guilty of a crime of the fourth degree if the person knowingly assists, conspires with, or urges any person to violate a provision of this bill.

Under the bill, it is not a crime to make or receive a payment or otherwise furnish or receive any fee, commission, or rebate that does not vary based on: 1) the number of patients referred to a substance use disorder treatment facility; 2) the duration, level, volume, or nature of the substance use disorder treatment services provided to a patient; or 3) the amount of benefits provided by a carrier to a substance use disorder treatment facility for treatment or services provided to a patient.

A crime of the fourth degree is generally punishable by a term of imprisonment of up to 18 months or a fine of up to \$10,000 or both.

COMMITTEE AMENDMENTS:

The committee amendments: 1) remove civil penalties and impose criminal penalties for certain referrals to substance use disorder treatment facilities as provided in the bill; 2) make technical changes to the title and synopsis; and 3) remove the provision of the bill requiring the Commissioner of Human Services to adopt rules and regulations.

SENATE HEALTH, HUMAN SERVICES AND SENIOR
CITIZENS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 2280

with committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 14, 2020

The Senate Health, Human Services and Senior Citizens Committee reports favorably and with committee amendments Assembly Bill No. 2280 (1R).

As amended by the committee, this bill provides that a person is guilty of a crime of the fourth degree if the person knowingly makes or receives a payment or otherwise furnishes or receives any fee, commission, or rebate to any person in connection with the referral of patients to substance use treatment disorder facilities regulated by the Division of Mental Health and Addiction Services in the Department of Human Services. The bill provides that a person is guilty of a crime of the fourth degree if the person knowingly assists, conspires with, or urges any person to violate a provision of this bill.

Under the bill, it is not a crime to make or receive a payment or otherwise furnish or receive any fee, commission, or rebate that does not vary based on: 1) the number of patients referred to a substance use disorder treatment facility; 2) the duration, level, volume, or nature of the substance use disorder treatment services provided to a patient; or 3) the amount of benefits provided by a carrier to a substance use disorder treatment facility for treatment or services provided to a patient.

A crime of the fourth degree is generally punishable by a term of imprisonment of up to 18 months or a fine of up to \$10,000 or both.

As reported by the committee with amendments, Assembly Bill No. 2280 (1R) is identical to Senate Bill No. 1763, which was also reported by the committee on this date with amendments.

COMMITTEE AMENDMENTS:

The committee amendments make various technical corrections to update internal cross-citations and to make certain corrections involving grammar and syntax.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 2280

STATE OF NEW JERSEY 219th LEGISLATURE

DATED: JUNE 30, 2020

SUMMARY

- Synopsis:** Criminalizes certain payments for referral of patients to substance use disorder treatment facilities.
- Type of Impact:** Annual State Expenditure and Revenue Increases. Annual Expenditure Increases to County Governments.
- Agencies Affected:** Department of Law and Public Safety; Judiciary; Office of the Public Defender; Department of Corrections; County Governments.

Office of Legislative Services Estimate

| Fiscal Impact | <u>Annual</u> |
|-----------------------------------|----------------------|
| State Expenditure Increase | Indeterminate |
| State Revenue Increase | Indeterminate |
| Local Expenditure Increase | Indeterminate |

- The Office of Legislative Services (OLS) finds that establishing the crime of making or receiving certain payments for referring patients to substance use disorder treatment facilities would result in indeterminate annual expenditure increases to the Department of Law and Public Safety, the Judiciary, the Office of the Public Defender, and county prosecutors' offices to the extent the bill results in more trials and convictions. The OLS has insufficient data to serve as a basis for projecting the frequency of criminal violations subject to sanctions under the bill.
- The referral activities enumerated in the bill would be a crime of the fourth degree, which is punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000, or both.
- The Department of Corrections would incur increased annual costs if the bill's provisions result in additional incarcerations.
- The State would incur an indeterminate annual revenue increase from fine and penalty payments if the bill's provisions result in additional criminal convictions.

BILL DESCRIPTION

This bill provides that a person is guilty of a crime of the fourth degree if the person knowingly makes or receives a payment or otherwise furnishes or receives any fee, commission, or rebate to any person in connection with the referral of patients to substance use treatment disorder facilities regulated by the Division of Mental Health and Addiction Services in the Department of Human Services. The bill provides that a person is guilty of a crime of the fourth degree if the person knowingly assists, conspires with, or urges any person to violate a provision of the bill. A crime of the fourth degree is generally punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000, or both.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds that establishing the crime of making or receiving certain payments for referral of patients to substance use disorder treatment facilities would result in indeterminate annual expenditure increases to the Department of Law and Public Safety, the Judiciary, the Office of the Public Defender, and county prosecutors' offices to the extent that the bill results in additional trials and convictions. The OLS has insufficient data to serve as a basis for projecting the frequency of criminal violations subject to sanctions under the bill.

Expenditure Increases: The referral activities enumerated in the bill would constitute a crime of the fourth degree, which is punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000, or both. A presumption of non-incarceration applies to first-time offenders for crimes of the fourth degree. However, there may be instances where violations of the bill's provisions lead to incarceration, resulting in increased costs to the Department of Corrections.

Revenue Increases: The State would incur an indeterminate annual revenue increase from fine and penalty payments if the bill's provisions result in additional convictions.

The OLS cannot determine the number of convictions that would result from passage of the bill and, by extension, the total of any resultant fine, fee, and assessment collections.

The OLS additionally notes that due to financial constraints, many penalties go unpaid by those persons convicted of crimes.

Section: Law and Public Safety

Analyst: Kristin Brunner Santos
Senior Fiscal Analyst

Approved: Frank W. Haines III
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

ASSEMBLY, No. 2280

STATE OF NEW JERSEY 219th LEGISLATURE

DATED: DECEMBER 22, 2020

SUMMARY

- Synopsis:** Criminalizes certain payments for referral of patients to substance use disorder treatment facilities.
- Type of Impact:** Annual State Expenditure and Revenue Increases. Annual Expenditure Increases to County Governments.
- Agencies Affected:** Department of Law and Public Safety; Judiciary; Office of the Public Defender; Department of Corrections; County Governments.

Office of Legislative Services Estimate

| Fiscal Impact | <u>Annual</u> |
|-----------------------------------|----------------------|
| State Expenditure Increase | Indeterminate |
| State Revenue Increase | Indeterminate |
| Local Expenditure Increase | Indeterminate |

- The Office of Legislative Services (OLS) finds that establishing the crime of making or receiving certain payments for referring patients to substance use disorder treatment facilities would result in indeterminate annual expenditure increases to the Department of Law and Public Safety, the Judiciary, the Office of the Public Defender, and county prosecutors' offices to the extent the bill results in more trials and convictions. The OLS has insufficient data to serve as a basis for projecting the frequency of criminal violations subject to sanctions under the bill.
- The referral activities enumerated in the bill would be a crime of the fourth degree, which is punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000, or both.
- The Department of Corrections would incur increased annual costs if the bill's provisions result in additional incarcerations.
- The State would incur an indeterminate annual revenue increase from fine and penalty payments if the bill's provisions result in additional criminal convictions.

BILL DESCRIPTION

This bill provides that a person is guilty of a crime of the fourth degree if the person knowingly makes or receives a payment or otherwise furnishes or receives any fee, commission, or rebate to any person in connection with the referral of patients to substance use treatment disorder facilities regulated by the Division of Mental Health and Addiction Services in the Department of Human Services. The bill also provides that a person is guilty of a crime of the fourth degree if the person knowingly assists, conspires with, or urges any person to make, furnish, or receive a payment, fee, commission, or rebate in violation of the bill's provisions. A crime of the fourth degree is generally punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000, or both.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds that establishing the crime of making or receiving certain payments for referral of patients to substance use disorder treatment facilities would result in indeterminate annual expenditure increases to the Department of Law and Public Safety, the Judiciary, the Office of the Public Defender, and county prosecutors' offices to the extent that the bill results in additional trials and convictions. The OLS has insufficient data to serve as a basis for projecting the frequency of criminal violations subject to sanctions under the bill.

Expenditure Increases: The referral activities enumerated in the bill would constitute a crime of the fourth degree, which is punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000, or both. A presumption of non-incarceration applies to first-time offenders for crimes of the fourth degree. However, there may be instances where violations of the bill's provisions lead to incarceration, resulting in increased costs to the Department of Corrections.

Revenue Increases: The State would incur an indeterminate annual revenue increase from fine and penalty payments if the bill's provisions result in additional convictions.

The OLS cannot determine the number of convictions that would result from passage of the bill and, by extension, the total of any resultant fine, fee, and assessment collections.

The OLS additionally notes that due to financial constraints, many penalties go unpaid by those persons convicted of crimes.

Section: Law and Public Safety

Analyst: Kristin Brunner Santos
Senior Fiscal Analyst

Approved: Thomas Koenig
Assistant Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

SENATE, No. 1763

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

Sponsored by:

Senator VIN GOPAL

District 11 (Monmouth)

Senator JOSEPH P. CRYAN

District 20 (Union)

Co-Sponsored by:

Senator Diegnan

SYNOPSIS

Prohibits certain substance use disorder treatment facilities from paying fees, commissions, or rebates to any person to refer patients to facility.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 9/14/2020)

1 AN ACT concerning referrals to substance use disorder treatment
2 facilities and supplementing Title 26 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. a. Except as provided in subsection b. of this section, no
8 substance use disorder treatment facility approved and licensed in
9 accordance with section 8 of P.L.1975, c.305 (C.26:2B-14) shall
10 pay or otherwise furnish any fee, commission, or rebate to any
11 person to refer patients to the facility for substance use disorder
12 treatment or services. Each violation of the provisions of this
13 section shall be punishable by a civil penalty of up to \$25,000,
14 which shall be collected and enforced by the Commissioner of
15 Human Services in a summary proceeding pursuant to the "Penalty
16 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

17 b. The penalties imposed pursuant to subsection a. of this
18 section shall not apply to a fee, commission, or rebate that does not
19 vary based on:

20 (1) the number of patients referred to a substance use disorder
21 treatment facility;

22 (2) the duration, level, volume, or nature of the treatment
23 services provided to a patient; or

24 (3) the amount paid by a carrier to a substance use disorder
25 treatment facility for treatment or services provided to a patient.

26

27 2. a. Except as provided in subsection b. of this section, no
28 substance use disorder treatment facility issued a certificate of
29 approval pursuant to P.L.1970, c.334 (C.26:2G-21 et seq.) shall pay
30 or otherwise furnish any fee, commission, or rebate to any person to
31 refer patients to the facility for substance use disorder treatment or
32 services. Each violation of the provisions of this section shall be
33 punishable by a civil penalty of up to \$25,000, which shall be
34 collected and enforced by the Commissioner of Human Services in
35 a summary proceeding pursuant to the "Penalty Enforcement Law
36 of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

37 b. The penalties imposed pursuant to subsection a. of this
38 section shall not apply to a fee, commission, or rebate that does not
39 vary based on:

40 (1) the number of patients referred to a substance use disorder
41 treatment facility;

42 (2) the duration, level, volume, or nature of the substance use
43 disorder treatment services provided to a patient; or

44 (3) the amount of benefits provided by a carrier to a substance
45 use disorder treatment facility for treatment or services provided to
46 a patient.

1 3. The Commissioner of Human Services, pursuant to the
2 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-
3 1 et seq.), shall adopt rules and regulations to implement the
4 provisions of this act.

5

6 4. This act shall take effect immediately.

7

8

9

STATEMENT

10

11 This bill prohibits substance use treatment disorder facilities
12 regulated by the Division of Mental Health and Addiction Services
13 in the Department of Human Services from paying or otherwise
14 furnishing any fee, commission, or rebate to any person for
15 referring patients to the facility for treatment or services. Each
16 violation of the bill is punishable by a civil penalty of up to
17 \$25,000.

18 The civil penalties imposed under the bill will not apply to the
19 payment of a fee, commission, or rebate that does not vary based on
20 the number of patients referred to a substance use disorder
21 treatment facility; the duration, level, volume, or nature of the
22 substance use disorder treatment services provided to a patient; or
23 the amount paid by a carrier to a substance use disorder treatment
24 facility for treatment or services provided to a patient.

SENATE HEALTH, HUMAN SERVICES AND SENIOR
CITIZENS COMMITTEE

STATEMENT TO
SENATE, No. 1763

with committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 14, 2020

The Senate Health, Human Services and Senior Citizens Committee reports favorably and with committee amendments Senate Bill No. 1763.

As amended by the committee, this bill provides that a person is guilty of a crime of the fourth degree if the person knowingly makes or receives a payment or otherwise furnishes or receives any fee, commission, or rebate to any person in connection with the referral of patients to substance use treatment disorder facilities regulated by the Division of Mental Health and Addiction Services in the Department of Human Services. The amended bill additionally provides that a person is guilty of a crime of the fourth degree if the person knowingly assists, conspires with, or urges any person to violate a provision of this bill.

Under the bill as amended, it is not a crime to make or receive a payment or otherwise furnish or receive any fee, commission, or rebate that does not vary based on: 1) the number of patients referred to a substance use disorder treatment facility; 2) the duration, level, volume, or nature of the substance use disorder treatment services provided to a patient; or 3) the amount of benefits provided by a carrier to a substance use disorder treatment facility for treatment or services provided to a patient.

A crime of the fourth degree is generally punishable by a term of imprisonment of up to 18 months or a fine of up to \$10,000 or both.

As reported by the committee with amendments, Senate Bill No. 1763 is identical to Assembly Bill No. 1763 (1R), which was also reported by the committee on this date with amendments.

COMMITTEE AMENDMENTS:

The committee amendments: 1) remove civil penalties and impose criminal penalties for certain referrals to substance use disorder treatment facilities as provided in the bill; 2) make technical changes to the title and synopsis; and 3) remove language requiring the Commissioner of Human Services to adopt rules and regulations.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 1763 STATE OF NEW JERSEY 219th LEGISLATURE

DATED: DECEMBER 22, 2020

SUMMARY

- Synopsis:** Criminalizes certain payments for referral of patients to substance use disorder treatment facilities.
- Type of Impact:** Annual State Expenditure and Revenue Increases. Annual Expenditure Increases to County Governments.
- Agencies Affected:** Department of Law and Public Safety; Judiciary; Office of the Public Defender; Department of Corrections; County Governments.

Office of Legislative Services Estimate

| Fiscal Impact | <u>Annual</u> |
|-----------------------------------|----------------------|
| State Expenditure Increase | Indeterminate |
| State Revenue Increase | Indeterminate |
| Local Expenditure Increase | Indeterminate |

- The Office of Legislative Services (OLS) finds that establishing the crime of making or receiving certain payments for referring patients to substance use disorder treatment facilities would result in indeterminate annual expenditure increases to the Department of Law and Public Safety, the Judiciary, the Office of the Public Defender, and county prosecutors' offices to the extent the bill results in more trials and convictions. The OLS has insufficient data to serve as a basis for projecting the frequency of criminal violations subject to sanctions under the bill.
- The referral activities enumerated in the bill would be a crime of the fourth degree, which is punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000, or both.
- The Department of Corrections would incur increased annual costs if the bill's provisions result in additional incarcerations.
- The State would incur an indeterminate annual revenue increase from fine and penalty payments if the bill's provisions result in additional criminal convictions.

BILL DESCRIPTION

This bill provides that a person is guilty of a crime of the fourth degree if the person knowingly makes or receives a payment or otherwise furnishes or receives any fee, commission, or rebate to any person in connection with the referral of patients to substance use treatment disorder facilities regulated by the Division of Mental Health and Addiction Services in the Department of Human Services. The bill also provides that a person is guilty of a crime of the fourth degree if the person knowingly assists, conspires with, or urges any person to make, furnish, or receive a payment, fee, commission, or rebate in violation of the bill's provisions. A crime of the fourth degree is generally punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000, or both.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds that establishing the crime of making or receiving certain payments for referral of patients to substance use disorder treatment facilities would result in indeterminate annual expenditure increases to the Department of Law and Public Safety, the Judiciary, the Office of the Public Defender, and county prosecutors' offices to the extent that the bill results in additional trials and convictions. The OLS has insufficient data to serve as a basis for projecting the frequency of criminal violations subject to sanctions under the bill.

Expenditure Increases: The referral activities enumerated in the bill would constitute a crime of the fourth degree, which is punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000, or both. A presumption of non-incarceration applies to first-time offenders for crimes of the fourth degree. However, there may be instances where violations of the bill's provisions lead to incarceration, resulting in increased costs to the Department of Corrections.

Revenue Increases: The State would incur an indeterminate annual revenue increase from fine and penalty payments if the bill's provisions result in additional convictions.

The OLS cannot determine the number of convictions that would result from passage of the bill and, by extension, the total of any resultant fine, fee, and assessment collections.

The OLS additionally notes that due to financial constraints, many penalties go unpaid by those persons convicted of crimes.

Section: Law and Public Safety

Analyst: Kristin Brunner Santos
Senior Fiscal Analyst

Approved: Thomas Koenig
Assistant Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

Governor Murphy Takes Action on Legislation

03/1/2021

TRENTON - Today, Governor Murphy signed the following bills into law:

S-1271, 2588, 2660/ A-4409 (Cunningham, Gopal/Jasey, Downey, Reynolds-Jackson) – Establishes requirements for closures of private career schools and institutions of higher education, modifies review process of new academic programs, and requires approval of branch campuses

S-2713/A-4631 (Sarlo, Codey/Burzichelli) – Allows for cashless payment at certain sports and entertainment venues

A-1226/S-265 (Schaer, Jimenez, Wimberly, Mukherji, Benson, Quijano/T. Kean, Pou) – Requires electric public utilities to provide priority power restoration to certain medical facilities, assisted living facilities, and nursing homes

A-1537/S-2217 (Spearman, Moen/Cruz-Perez) – Extends economic recovery term under “Municipal Rehabilitation and Economic Recovery Act”; bars appeal of certain property assessments by Garden State Growth Zone Development Entity

A-2280/S-1763 (Armato, Murphy, Vainieri Huttel/Gopal, Cryan) – Criminalizes certain payments for referral of patients to substance use disorder treatment facilities

[Copy of Statement](#)

A-4454/S-2781 (Murphy, Reynolds-Jackson, Verrelli/Codey, Smith, Ruiz) – Requires school districts to include instruction on diversity and inclusion as part of implementation of New Jersey Student Learning Standards

**GOVERNOR'S STATEMENT UPON SIGNING
ASSEMBLY BILL NO. 2280
(SECOND REPRINT)**

Today I am signing Assembly Bill No. 2280 (Second Reprint), which makes it a crime to knowingly remit or receive any payment, fee, commission, or rebate in connection with the referral of patients to substance use disorder treatment facilities regulated by the Division of Mental Health and Addiction Services in the Department of Human Services. The bill also establishes a crime for knowingly assisting, conspiring with, or urging any person to violate a provision of the bill.

The bill provides an exemption for any payment, fee, commission, or rebate that does not vary based on: (1) the number of patients referred to a substance use disorder treatment facility; (2) the duration, level, volume, or nature of the substance use disorder treatment services provided to a patient; or (3) the amount of benefits provided by a carrier to a substance use disorder treatment facility for treatment or services provided to a patient.

I am pleased to take this step forward in protecting our residents from those who would seek to exploit the situations in which they are most vulnerable. The bill largely targets the same activity that is already subject to criminal prosecution at the federal level, and I certainly agree that State officials should also be empowered to prosecute this unacceptable conduct.

I am advised that the exemptions are broader than those contained in the federal statute and could inadvertently condone behavior that should be criminal. While it is important to enact the bill's protections immediately, I look forward to working with my legislative colleagues to evaluate the impact of these exemptions and, if necessary, narrow them in the future. Together, we can help residents suffering from addiction obtain the treatment and support they need to embark on a new path toward sobriety. With this legislation, we can ensure that no one is profiteering from that journey. Therefore, I am pleased to sign Assembly Bill No. 2280 (Second Reprint) into law today.

Date: March 1, 2021

/s/ Philip D. Murphy

Governor

Attest:

/s/ Parimal Garg

Chief Counsel to the Governor